

Decision 02-05-004 May 2, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation Into the Actions of
Southern California Edison Company (U 338 E),
and Its Officers and Employees for
Non-Compliance with a Commission Decision.

Investigation 01-12-007
(Filed December 11, 2001)

**OPINION CLOSING THIS PROCEEDING FOLLOWING
SOUTHERN CALIFORNIA EDISON COMPANY'S
COMPLIANCE WITH ITS PROPOSAL TO RESOLVE ALL ISSUES**

Summary

This decision closes this proceeding after Southern California Edison Company (Edison) complied with its proposal to resolve all issues addressed in this proceeding. We ordered Edison, its officers and employees to show cause whether or not they should be held in contempt, subject to penalties, and referred to the appropriate authorities to file criminal proceedings for their failure to comply with Decision (D.) 01-06-039 prior to the issuance of this Order Instituting Investigation (OII) and Order to Show Cause (OSC). Edison concurred that it had failed to meet the terms of D.01-06-039 and proposed a resolution of these issues. Edison has complied with its proposal and that compliance effectively resolves the issues before us.

Background

The Commission's December 11, 2001 order that established this proceeding fully describes the background and history of the Commission's order, adopted in D.01-06-039, requiring Edison to tender its Notice of Intent

(NOI) for a test year 2003 General Rate Case (GRC) no later than August 15, 2001. We do not restate the entire background here.

Edison failed to tender its NOI to the Commission by the close of business on September 13, 2001, after the Commission's Executive Director issued two extensions of time. Edison notified the Executive Director that it would not be able to comply with the September 13, 2001 deadline. On December 10, 2001, Edison submitted a letter stating that Edison recognized its failure to comply with D.01-06-039. Edison proposed to mitigate this failure by:

- Offering to submit its NOI on or before December 17, 2001;
- Offering to commit to work with the Office of Ratepayer Advocates and Commission staff to mitigate the impacts of the delay in filing the NOI; and
- Offering to voluntarily pay a penalty of \$47,500 for failing to comply with D.01-06-039.

The Commission subsequently opened this OII and the accompanying OSC into the actions of Edison and its officers and employees to determine whether they failed to comply with D.01-06-039, whether they should be held in contempt, and whether they should be subject to the penalties provided for in the Public Utilities Code. We authorized the assigned administrative law judge to determine whether it was necessary to proceed with this OSC and investigation once Edison had filed its NOI and complied with the terms of its proposal. Edison submitted its NOI on or before December 17, 2001, and paid a penalty of \$47,500 on February 27, 2002.

Resolution of this Proceeding

We conclude that Edison's tendering of its NOI and payment of a \$47,500 penalty is reasonable, consistent with the law, and in the public interest. Edison received two extensions to submit its NOI and alerted the Executive Director that

it would be unable to comply with the deadline established by the final extension. Prior to the issuance of this OII/OSC, Edison acknowledged its failure to comply with D.01-06-039. Subsequently, Edison tendered its NOI over three months late, and paid a penalty for failing to adhere to a Commission order. Voluntary payment of a penalty for delayed compliance with a Commission order is consistent with our authority to impose such a penalty. (*See* Pub. Util. Code §§ 2100 *et seq.*) The amount of the penalty is \$500 for each day Edison failed to comply with D.01-06-039 and is consistent with the level of fines we can order. (*See* Pub. Util. Code § 2107.) The public interest is served by resolving this matter without hearings and without further expenditure of Commission resources.

By this decision, we direct the deposit of Edison's \$47,500 penalty in the General Fund of the State of California. We will close this proceeding by this order.

The OII/OSC designated this an adjudicatory proceeding, and there have been no appeals of such designation. However, we have determined that Edison's compliance with the terms of its proposal outlined in this OII/OSC does not require further proceedings, including hearings. Therefore, the procedures for adjudicatory proceedings enumerated in Pub. Util. Code § 1701.2(a) and Rule 8.2 of the Rules of Practice and Procedure are not invoked.

In essence, this matter is now uncontested, and since Edison has paid the \$47,500 penalty already, we grant dismissal in recognition that the matter is resolved and waive public review and comment regarding this decision pursuant to Pub. Util. Code § 311(g)(2).

Findings of Fact

1. Edison failed to tender its NOI for a 2003 GRC by the September 13, 2001 deadline ordered by D.01-06-039 and extended twice by the Executive Director.
2. Edison tendered its NOI for a test year 2003 GRC on or before December 17, 2001.
3. Edison paid a penalty of \$47,500 for failing to tender its NOI in compliance with D.01-06-039.
4. Edison acknowledges that it failed to comply with D.01-06-039.

Conclusions of Law

1. Edison's proposal for resolving all issues in this proceeding is reasonable, consistent with the law, and in the public interest, and should be adopted.
2. Edison's agreement to pay a penalty here has no effect and sets no precedent for other issues or proceedings addressing penalties.
3. Further proceedings and hearings in this matter are not necessary, and the issuance of a presiding officer's decision is unnecessary.
4. Public review and comment regarding today's decision may be waived pursuant to Pub. Util. Code § 311(g)(2).
5. This proceeding should be closed immediately.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company's proposal to resolve all issues in this proceeding is granted.
2. The \$47,500 penalty paid by Southern California Edison Company shall be deposited in the General Fund of the State of California.

3. Public review and comment is waived, and this proceeding is closed.

This order is effective today.

Dated May 2, 2002, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

CARL W. WOOD

GEOFFREY F. BROWN

MICHAEL R. PEEVEY

Commissioners